

Estray. Finder of Lost Property.

Sections 2900 to 2906, Political Code, do not apply to lost or estray horses or other domestic animals found upon the range. Under Chapter 19, Laws of 1903, there is no possible way provided for the finder of a lost or estray horse to acquire the right to use or dispose of the same.

Helena, Montana, Jan. 31st, 1906.

Hon. T. J. Porter, County Attorney, Miles City, Montana.

Dear Sir:—Your letter of the 22nd inst. received. You ask us to give an opinion construing Article 1, Chapter 4 (Secs. 2900 to 2906) of the Political Code, relating to the duties of the finder of lost money and other personal property, and of persons who save domestic animals from drowning or starvation, and especially whether the provisions of this Chapter apply to lost and estray horses found upon the range.

Chapter 19 of the laws of 1905, by Section 1, defines the word "estrays" to mean any mare, gelding, stallion, etc., the owner of which cannot, with reasonable diligence, be found, or any animal as above described which is away from its accustomed range.

Section 2 of said chapter provides that any person who shall take up from the range and retain in his possession any estray animal as defined in section one, or any animal as above described, of which he is not the owner, or who shall in any manner restrain from liberty, work, ride or make use of any such estray animal shall be guilty of a misdemeanor, and Section 3 of said chapter provides that if any person shall, with intent to steal, dispose of or attempt to dispose of, any estray animal of which he is not the owner, he is guilty of grand larceny.

This law is so comprehensive in its terms that it must of necessity be

held to amend or repeal, by implication, any and all prior laws relating to lost or estray domestic animals found on the public range, and under its provisions there is no possible way by which a person can take up a lost or estray horse and acquire the right to use or dispose of the same.

Yours very truly,

ALBERT J. GALEN,

Attorney General.